

Appl. No. : 09/623,013
Filed : August 24, 2000

Rejections Under 35 U.S.C. § 112

The Examiner has rejected Claims 13 and 21 under 35 U.S.C. § 112 first paragraph, assertion that the specification does support the limitation "said fat being an emulsifier." Applicants have deleted this limitation from Claim 13. However, Applicant maintains that the specification does support this limitation (see page 2, lines 29-32 in the specification indicating that emulsifiers may be fats). Furthermore, Applicant maintains that those skilled in the art are familiar with the types of fats which act as an emulsifier. Accordingly, Applicants maintain that the specification satisfies the requirements of 35 U.S.C. § 112 first paragraph with respect to this limitation. Thus, Applicants have added new Claim 26 which includes this limitation and depends from Claim 13 and have maintained this limitation in Claim 21.

The Examiner has also rejected Claims 13-25 35 U.S.C. § 112, second paragraph as failing to particularly point out and distinctly claim what is regarded as the invention.

Claims 14-19 have been amended such that they recite "The composition...", rather than "The improver...".

Claim 18 has been cancelled.

Claim 19 has been amended to indicate that "the flour is selected from the group consisting of wheat flour and soy flour."

With the amendment of Claim 13 to remove the "fat being an emulsifier," Applicants submit that Claim 17 no longer creates an ambiguity with respect to the addition of emulsifiers.

Claims 13 and 20 have been amended to "particles of fat and enzymes." Applicants submit that the clarity issues regarding the phrase "prepared from" no longer apply in light of this amendment.

Claim 20 has also been amended to remove the phrase "forming particles...".

In the Advisory Action dated November 27, 2002, the Examiner indicated that, although the Amendment submitted September 23, 2002 was not entered, the phrase "agglomerated bread particles" which was present in Claim 20 of that Amendment was not proper. Accordingly, Claim 20 as present herein does not contain the terminology "bread particles."

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Rejections Under 35 U.S.C. § 102 and 103

The Examiner has rejected Claims 13-19 under 35 U.S.C. § 102(b) as anticipated by Kringelum (WO 98/38869). The Examiner has also rejected Claims 20-25 under 35 U.S.C. § 103(a) as unpatentable over Kringelum in view of Green et al.

As indicated in the Substitute Declaration filed on July 22, 2002, which was not entered after the Final Office Action and which is resubmitted herewith, the present invention was described and claimed in International Application No. PCT/BE99/00025 filed on February 18, 1999, entering the U.S. National Phase on August 24, 2000, and claims priority to European Application No. 98870039.9, filed on February 26, 1998.

Kringelum was published on September 11, 1998, which is after the priority date of the present application. Furthermore, the documents to which Kringelum claims priority were not published. Accordingly, the Kringelum application is not prior art under 35 U.S.C. § 102(b).

As described in the Amendment dated December 5, 2001, Green does not teach or suggest a composition comprising a powder having agglomerate particles and flour or a method of mixing particles with dough. The compositions disclosed in Green do not contain flour and are not used to make bread as recited in the pending claims. Specifically, Green discloses "enzyme granules, particularly for detergent compositions."

For the foregoing reasons, Applicant maintains that the present invention is not anticipated by Kringelum or Green et al. Accordingly, Applicants respectfully request the withdrawal of the rejections to Claims 13-25.

New Claims

As indicated above, Applicants have added new Claim 26.

CONCLUSION

The specific changes to the specification and the amended claims are shown on a separate set of pages attached hereto and entitled **VERSION WITH MARKINGS TO SHOW CHANGES MADE**, which follows the signature page of this Amendment. On this set of pages, the insertions are underlined while the deletions are ~~stricken through~~.

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The applicant has endeavored to address all of the Examiner's concerns as expressed in the outstanding Advisory Action. In light of these amendments and remarks, reconsideration and withdrawal of the outstanding rejections is respectfully requested. Any claim amendments which are not specifically discussed in the above remarks with respect to satisfying one of the statutory requirements for patentability are not made for patentability purposes, and it is believed that the claims would satisfy the statutory requirements for patentability without the entry of such amendments.

If any issues remain that may be addressed by a phone conversation, the Examiner is invited to contact the undersigned at the phone number listed below.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: March 20, 2003

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

Claim 18 has been cancelled. Claims 13-14, 16-17 and 19-20 have been amended as follows:

13. (Twice Amended) A composition for preparing bread comprising:
a powder comprising agglomerated particles ~~prepared from~~ of fat and enzymes,
said particles having a mean particle size of at least 250 μm , ~~said fat being an emulsifier;~~
and
flour.
14. (Amended) The ~~improver~~ composition of Claim 13, wherein the particles further comprise proteins.
16. (Amended) The ~~improver~~ composition of Claim 13, wherein the ratio of the standard deviation / mean agglomerated particle size is less than 0.8.
17. (Amended) The ~~improver~~ composition of Claim 13, wherein the particles further comprise ingredients selected from the group consisting of: emulsifiers, sugars, organic acids, minerals, and a combination thereof.
18. (Cancelled)
19. (Amended) The ~~improver~~ composition of Claim ~~13~~ 18, wherein the ~~carrier~~ flour is selected from the group consisting of ~~starch~~, wheat flour and soy flour.
20. (Twice Amended) A method for preparing bread, comprising:
obtaining a powder comprising particles ~~prepared from~~ of fat and enzymes, said particles having a mean particle size less than 200 μm ;
spraying the powder with an atomized liquid;
recovering the agglomerated ~~bread improver; forming particles, said particles~~
having a mean particle size greater than 250 μm ;
mixing said particles with dough; and
heating said mixture comprising said dough and said particles.